



2

Variance Staff Report

TO: ZONING HEARING OFFICER

FROM: KEITH NEWMAN, SENIOR PLANNER *KN*
(480) 503-6812, KEITH.NEWMAN@GILBERTAZ.GOV

THROUGH: ASHLEE MACDONALD, AICP, PRINCIPAL PLANNER *Am*
(480) 503-6748, ASHLEE.MACDONALD@GILBERTAZ.GOV

MEETING DATE: JANUARY 13, 2021

SUBJECT: V20-01, DICKER CASITA-GARAGE: REQUEST FOR A DEVIATION FROM THE STRICT APPLICATION OF THE LAND DEVELOPMENT CODE REQUIREMENT SET FORTH IN CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.104 LOT DEVELOPMENT REGULATIONS, TABLE 2.104 LOT DEVELOPMENT REGULATIONS - SINGLE FAMILY RESIDENTIAL DISTRICTS, TO REDUCE THE REQUIRED MINIMUM SIDE SETBACK FROM 30 FEET TO 16 FEET ½ INCHES TO ALLOW FOR THE ADDITION OF A SECONDARY DWELLING UNIT. THE SUBJECT PROPERTY IS LOCATED AT 3485 S. 157TH WAY AND IS ZONED SINGLE FAMILY-43 (SF-43).

STRATEGIC INITIATIVE: Exceptional Built Environment

A variance approval would allow a proposed secondary dwelling unit to be located within the side building setbacks on an existing single family residential lot.

RECOMMENDED MOTION

Unable to make the Findings of Fact and deny V20-01, Dicker Casita-Garage: a request to deviate from Section 2.104 to reduce the required minimum side setback (south) from 30 feet to 16 feet ½ inches, for approximately .95 acres of real property generally located at 3485 S. 157th Way and zoned Single Family-43 (SF-43).

APPLICANT/OWNER

Name: Bill Dicker
Address: 3485 S. 157th Way
Gilbert, AZ 85297
Phone: 602-684-5900
Email: billdicker@hotmail.com

Company: Dicker Family Living Trust
Address: 3485 S. 157th Way
Gilbert, AZ 85297
Phone: 602-684-5900
Email: billdicker@hotmail.com

BACKGROUND/DISCUSSION

History

Date	Description
<i>October 10, 2006</i>	Council adopted Ordinance No. 1853 annexing 653.96 acres of land, including the subject site, into the Town of Gilbert.
<i>March 6, 2007</i>	Council adopted Ordinance No. 1897, rezoning approximately 257 acres of land from Maricopa County Rural-43 zoning district to Town of Gilbert Single Family-43 (SF-43).

Overview

The subject site is zoned Single Family-43 (SF-43) and is located at 3485 S. 157th Way, south and west of the southwest corner of Greenfield Rd. and Bonanza Rd. consisting of a .95-acre (approximately 207' x 218'/41,533 sq. ft.) lot. The existing house has an approximate building footprint of 4,615 sq. ft. The property owner is proposing to construct a 3,440 sq. ft. detached secondary dwelling unit along the southern boundary of the lot that will contain 1,864 livable sq. ft., 1,256 sq. ft. of garage space and 320 sq. ft. of covered patio space.

The applicant requests a deviation from the strict application of the Land Development Code (LDC) requirement set forth in Division 2 Land Use Designations, Article 2.1 Single Family Residential Districts, Section 2.104 Lot Development Regulations. The applicant proposes to reduce the required minimum side setback along the southern property line from 30 feet to 16 feet ½ inches, for the proposed secondary dwelling unit.

Secondary dwelling units must comply with the additional development regulations under LDC Section 2.106 D. Should the proposed Variance request be granted the Secondary Dwelling Unit must receive approval of an Administrative Use Permit and must comply with the additional development regulations under LDC Section 2.106 D.

Surrounding Land Use & Zoning Designations:

	Existing Land Use Classification	Existing Zoning	Existing Use
North	Residential > 0-1 DU/Acre	Single Family – 43 (SF-43)	Residence
South	Residential > 0-1 DU/Acre	Single Family – 43 (SF-43)	Residence
East	Residential > 0-1 DU/Acre	Single Family – 43 (SF-43)	Residence

West	Residential > 0-1 DU/Acre	Single Family – 43 (SF-43)	Residence
Site	Residential > 0-1 DU/Acre	Single Family – 43 (SF-43)	Residence

Project Data Table

Site Development Regulations	Required per LDC	Proposed under V20-01
Minimum Building Setback		
Front	40 ft.	40 ft.
Side (south)	30 ft.	16 ft. ½ inches (south property boundary only)
Side (north)	30 ft.	30 ft.
Rear	40 ft.	40 ft.

FINDINGS

In order to approve a Variance, the Zoning Hearing Officer is required to make four findings per Section 5.503 of the LDC. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;***

Staff finds that special circumstances are not present.

The subject site is approximately .95 acres, square in shape, and located midblock on a cul-de-sac street. The approximate dimensions of the lot are 207 feet wide and 218 feet deep which matches all other properties in the immediate neighborhood. The property is not constricted by its shape, location within the neighborhood or by its size. Staff also finds that the required development regulations would not preclude the property from development of a secondary dwelling unit and/or garage in an alternate configuration or size in conformance with the setback requirements set forth by Section 2.104 of the Land Development Code.

Staff finds that the strict application of the zoning ordinance would not deprive the specific property of privileges enjoyed by similar property in the SF-43 zoning district as four other properties which are the same size within the immediate area have constructed secondary dwelling units that comply with the required LDC setbacks.

Staff notes that the strict application of the side setback along the southern property line does not deprive the applicant the privilege of constructing the secondary dwelling unit on the subject site. The subject site has approximately 4,000 sq. ft. of buildable area in the immediate area around the proposed structure that is in excess of the proposed secondary dwelling unit footprint of 3,440 sq. ft. While staff recognizes the desire of the

applicant to construct a secondary dwelling unit as proposed, there is sufficient land area within the building envelope for additional development of the property. Staff has found other properties within the surrounding neighborhood, having similar qualities as the subject site, which have constructed secondary dwelling units on their property while remaining in conformance with Town setback requirements.

B. Such special circumstances were not created by the owner or applicants;

Staff finds that the special circumstances present are “self-imposed”.

Staff recognizes that the existing residence was centered on the lot limiting the space for additions. However, in staff’s opinion, the overall size of the lot provides ample room for construction of the desired structure while still adhering to the SF-43 development standards. The lot has approximately 4,000 sq. ft. of space within the building envelope in the south portion of the lot where structures may be built. Therefore, while the applicant’s preferred design encroaches into the side setback, staff would consider the need for the encroachment to be self-imposed.

C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;

Staff finds the variance would grant special privileges inconsistent with limitations on nearby or comparable properties.

The proposed variance would allow construction of a secondary dwelling unit that encroaches into the required 30’ side yard setback. Other properties in the neighborhood with SF-43 zoning are subject to the same LDC setback requirements and limitations. Based on a review of historical aerial photos and Town permit records there appears to be approximately 37 properties in the neighborhood on the west side of Greenfield Rd. from Bonanza St. to Germann Rd. that have detached structures (i.e. garage, workshop or secondary dwelling unit); Staff notes that according to Town permit records that only 13 were built after the areas annexation into the Town of Gilbert in 2006 and permitted by the Town in compliance with required LDC setbacks at the time of construction; Staff also notes that only 4 of the 13 structures are secondary dwelling units. Staff also notes that 24 of the 37 structures in the area were built before annexation into the Town and may be legal non-conforming if they were built in compliance with the Maricopa County setback requirements.

In staff’s opinion, granting a nearly 50% reduction of the side setback requirement on the south side of the lot for the subject site would be considered a special privilege inconsistent with the limitations put on other properties because there is not a physical constraint to locating the structures in compliance with code.

D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

Staff finds that the proposed variance will not be detrimental to the enjoyment of adjacent properties, land uses or the greater community's welfare and safety.

The square footage of the addition combined with the existing square footage of the home would still fall under the maximum lot coverage allowed. Additionally, the applicant has provided a signed letter of support from five neighbors concerning the proposed addition to subject site.

Pursuant to the above analysis, Staff finds that the variance request does not meet all of the four (4) findings required by Article 5.503 of the Land Development Code and ARS § 9-462.06.G.

PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town and neighborhood notice was provided per the requirements of the Land Development Code Article 5.205.

Staff has received no comments from the public.

PROPOSITION 207

An agreement to "Waive Claims for Diminution in Value" pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 5.201 of the Town of Gilbert Land Development Code. This waiver is located in the case file.

STAFF RECOMMENDATION

Unable to make the Findings of Fact and deny V20-01, Dicker Casita-Garage: a request to deviate from Section 2.104 to reduce the required minimum side setback (south) from 30 feet to 16 feet ½ inches, for approximately .95 acres of real property generally located at 3485 S. 157th Way and zoned Single Family-43 (SF-43).

Should the Zoning Hearing Officer be inclined to make the findings and approve the variance request, it should be subject to the following condition:

1. The variance only modifies those standards specifically identified; all other standards of the Land Development Code must be met.

Respectfully submitted,

Keith Newman,
Senior Planner



Attachments and Enclosures:

- 1) Hearing Officer Findings of Fact (blank form)
- 2) Notice of Public Hearing
- 3) Aerial Photo
- 4) Applicant Narrative
- 5) Exhibits

FINDINGS OF FACT

FINDINGS OF FACT FOR VARIANCE APPLICATIONS

CASE NUMBER: V20-01 **APPLICANT NAME:** William Dicker

The Hearing Officer, having heard all the evidence before it and having reviewed the file in the above application for a variance, hereby grants the variance application and makes the following findings:

There are special circumstances of the property, including its size, shape, topography, location or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Those special circumstances include the following:

The above special circumstances applicable to the property were not created by the owner or applicant and are more than mere personal inconvenience or financial hardship because:

The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone and vicinity in which such property is located because:

The authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general because:

The variance will not make any changes in the uses permitted in the zoning classification or zoning district, or make any changes in the terms of the zoning ordinance except adjustments authorized by ARS § 9-462.06.

Hearing Officer

Date

Notice of Public Hearing

VARIANCE HEARING DATE:

Wednesday, January 13, 2021* TIME: 5:00 PM

LOCATION: Due to the impacts of the COVID-19 pandemic, all public meetings will be conducted using measures to protect public health. Please refer to the meeting agenda for methods of public participation, as permitted under Arizona state law.

***Call Planning Division to verify date and time: (480) 503-6812**

* The application is available to the public for review at the Town of Gilbert Planning Division Monday - Thursday 7AM - 6PM. Staff reports are available prior to the meeting at www.gilbertaz.gov/departments/development-services/planning/planning-commission and www.gilbertdocs.com/gilbertagendaonline.

REQUESTED ACTION:

V20-01 DICKER CASITA-GARAGE: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.1 Single Family Residential Districts, Section 2.104 Lot Development Regulations, Table 2.104 Lot Development Regulations – Single Family Residential Districts, to reduce the required minimum side setback from 30 feet to 16 feet ½ inches on the south side of the property to allow for the addition of an accessory dwelling unit. The subject property is located at 3485 S. 157TH Way and is zoned Single Family-43 (SF-43).

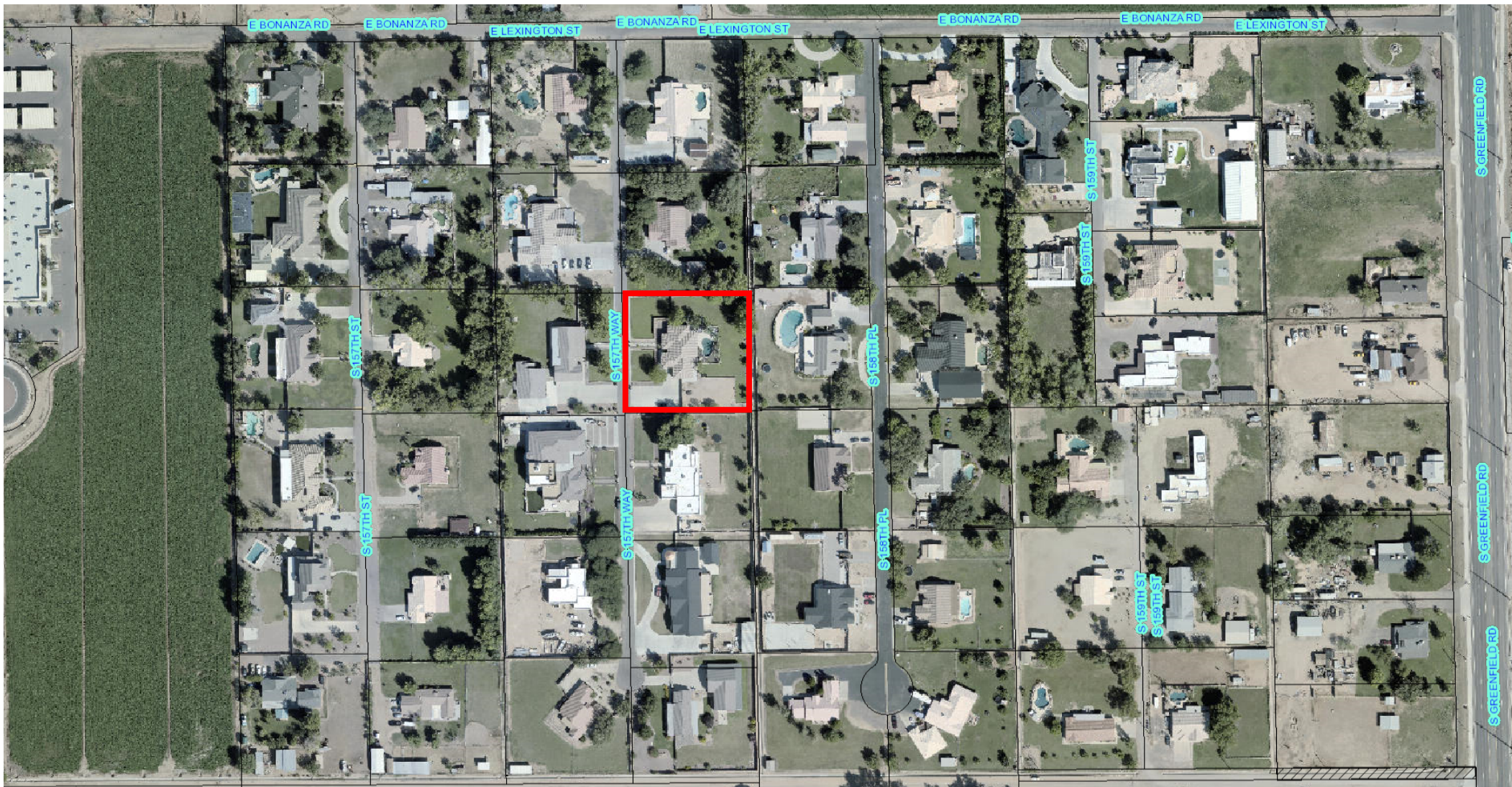
SITE LOCATION:



APPLICANT: Bill Dicker
CONTACT: Bill Dicker
ADDRESS: 3458 S 157th Way
 Gilbert, AZ 85297

TELEPHONE: (602) 684-5900
E-MAIL: billdicker@hotmail.com

Dicker Casita Aerial Map



Dicker Casita/ Garage Variance Revised November 11 th. 2020

3485 S 157 Th. Way Gilbert Arizona 85297

APN 304-53-166D

This request is to permit Constuction of a Casita RV garage and Two Car Garage to be built on the south side of the property. The variance we are applying for would allow us to build 16-0 feet from the property line. The proposed structure to be built will match the existing structure in stucco coloring, light fixtures, roofing, all power and water will be feed from existing structure. The only doors visible from the street will be the two-car garage and the RV garage the masonry wall will cover the rest or the distance between the existing structure and property line again on the south side. This is shown on Exhibit #15. We will submit exhibits again because of added of changed exhibits. We will also add new exhibits showing new property's showing property's we have seen that support our Variance. We also will submit SIGNATUIRES from all Neighbor's surrounding or property supporting construction of our Casita and garages. Again, these signatures are from all neighbors from the North, South, East and West as well as other neighbors who live in the immediate area.

- A. There are special circumstances applicable to the property, including site size, shape, topography, location or surroundings whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by others property of the same classification in the same zoning district.

1. The existing house was built in 1999 in the center of the property. A pool was added ten years later at the back of the existing house. At the same time provisions were made to add a structure to the south of the property by adding a wall to bring the elevation of the soil to the same elevation as the house, see exhibit # 15A.

2. This lot also has irrigation from the back of the property that feeds the hole lot from the South East corner. The Casita we are planning and the location of such allows access of the water flow to the rest of the property. The Casita cannot be moved because of irrigation flow. If a variance is not allowed you are depriving use of privileges enjoyed by others.

3. The setback of 30 foot is by code and we are requesting a 16-0 setback variance, we have given many variations to Keith Newman in the same zoning and heard many varies reasons why they were allowed to be built, but the fact remains that we are looking for the same privileges as others and many others we have pointed out dozens.

- B. Such special circumstances were not created by the owner or applicant;

The set back at the south side of the property was no created by the owner nor was the Irrigation location to the property at the South East corner created by the owner. The Casita / Garages cannot be built elsewhere on the property without upsetting the Irrigation flow.

- C. The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;

In the same zoning other Casitas / Garages of similar structure exist most garages and casita are closer the property line than we are requesting some four feet from property lines and what we here is the Casita /Garage is different than the others they have separated the garage and casita well if we build ten feet from the South property line, we can build in a breeze way. This makes no sense for several reason first cost adds and second the structure becomes much bigger. You are depriving us of privileges enjoyed by others.

D. The variance will not be materially detrimental to persons residing or working in the vicinity to adjacent property, to the neighborhood, or public welfare in general.

The new Casita/ garages are layout in a way similar to others structures in the same zoning. We have signatures from all neighbors we will be over 80-0 feet from the closest structure and 16-0 feet from the property line. The property next door has signed of and supports our variance. There is not a homeowner's association in this area. What we are proposing only adds value to the area and adds taxes value to the city of gilbert.

Final Comments;

We have added only new Exhibits you already have site plans, structure layouts, building plans etc. We will include all neighbor signatures; you have all addresses of similar structures which may have been built under county bylaws but we in essence built up the elevation of the soil to those bylaws. What we are requesting is reasonable it is only what others in the zoning already have. What you are doing is depriving us of privileges enjoyed by others. Under section A. of the variance request you are in violation of you own building codes.

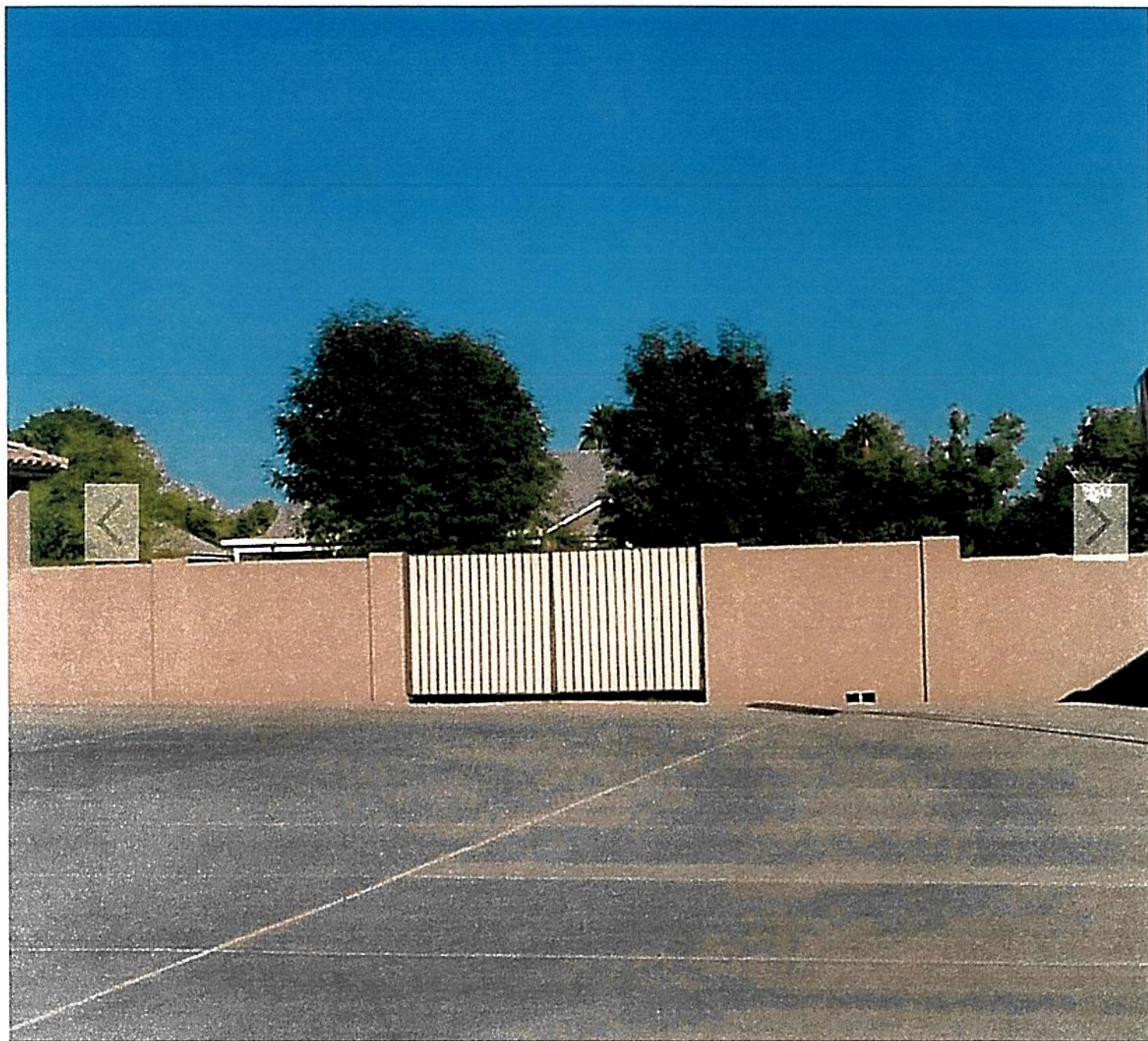
Photos

♡ Save Home

✉ Share

✕

EXHIBIT # 15



3485 S 157 TH WAY
AREA OF PROPOSED
R.V. & CASITA.

Off Market: \$694,412 (4 beds, 2 baths, 2,936 sqft)

EXHIBIT # 15A

EXHIBET
15A



Tim and Connie Dicker

3485 S 157 Th Way Gilbert Arizona,

We are proposing to build a casita, two car garage and an RV garage on the south side of our existing residence. We are planning on building it and a variance is required with the City of Gilbert. The set back requirement is 30 feet from the property line and we are looking to build it 16 feet from the property line thus the need for the variance. Enclosed is a site plan and a sketch of the building we are planning to build.

We would appreciate your support,

Name Sean & Laura Housley

Address 3470 S 158th Pl Gilbert AZ 85297

Signature


Laura Housley

Tim and Connie Dicker

3485 S 157 Th Way Gilbert Arizona,

We are proposing to build a casita, two car garage and an RV garage on the south side of our existing residence. We are planning on building it and a variance is required with the City of Gilbert. The set back requirement is 30 feet from the property line and we are looking to build it 16 feet from the property line thus the need for the variance. Enclosed is a site plan and a sketch of the building we are planning to build.

We would appreciate your support,

Name Joe & Panda Jobe
Address 3504 S. 157th Way
Signature Rachel Jobe

Tim and Connie Dicker

3485 S 157 Th Way Gilbert Arizona,

We are proposing to build a casita, two car garage and an RV garage on the south side of our existing residence. We are planning on building it and a variance is required with the City of Gilbert. The set back requirement is 30 feet from the property line and we are looking to build it 16 feet from the property line thus the need for the variance. Enclosed is a site plan and a sketch of the building we are planning to build.

We would appreciate your support,

Name Justin Dicker

Address 3543 S. 157th Way Gilbert AZ 85297

Signature



Tim and Connie Dicker

3485 S 157 Th Way Gilbert Arizona,

We are proposing to build a casita, two car garage and an RV garage on the south side of our existing residence. We are planning on building it and a variance is required with the City of Gilbert. The set back requirement is 30 feet from the property line and we are looking to build it 16 feet from the property line thus the need for the variance. Enclosed is a site plan and a sketch of the building we are planning to build.

We would appreciate your support,

Name Karin Jobe

Address 3515 S. 157th Way Gilbert, AZ 85297

Signature 

Tim and Connie Dicker

3485 S 157 Th Way Gilbert Arizona,

We are proposing to build a casita, two car garage and an RV garage on the south side of our existing residence. We are planning on building it and a variance is required with the City of Gilbert. The set back requirement is 30 feet from the property line and we are looking to build it 16 feet from the property line thus the need for the variance. Enclosed is a site plan and a sketch of the building we are planning to build.

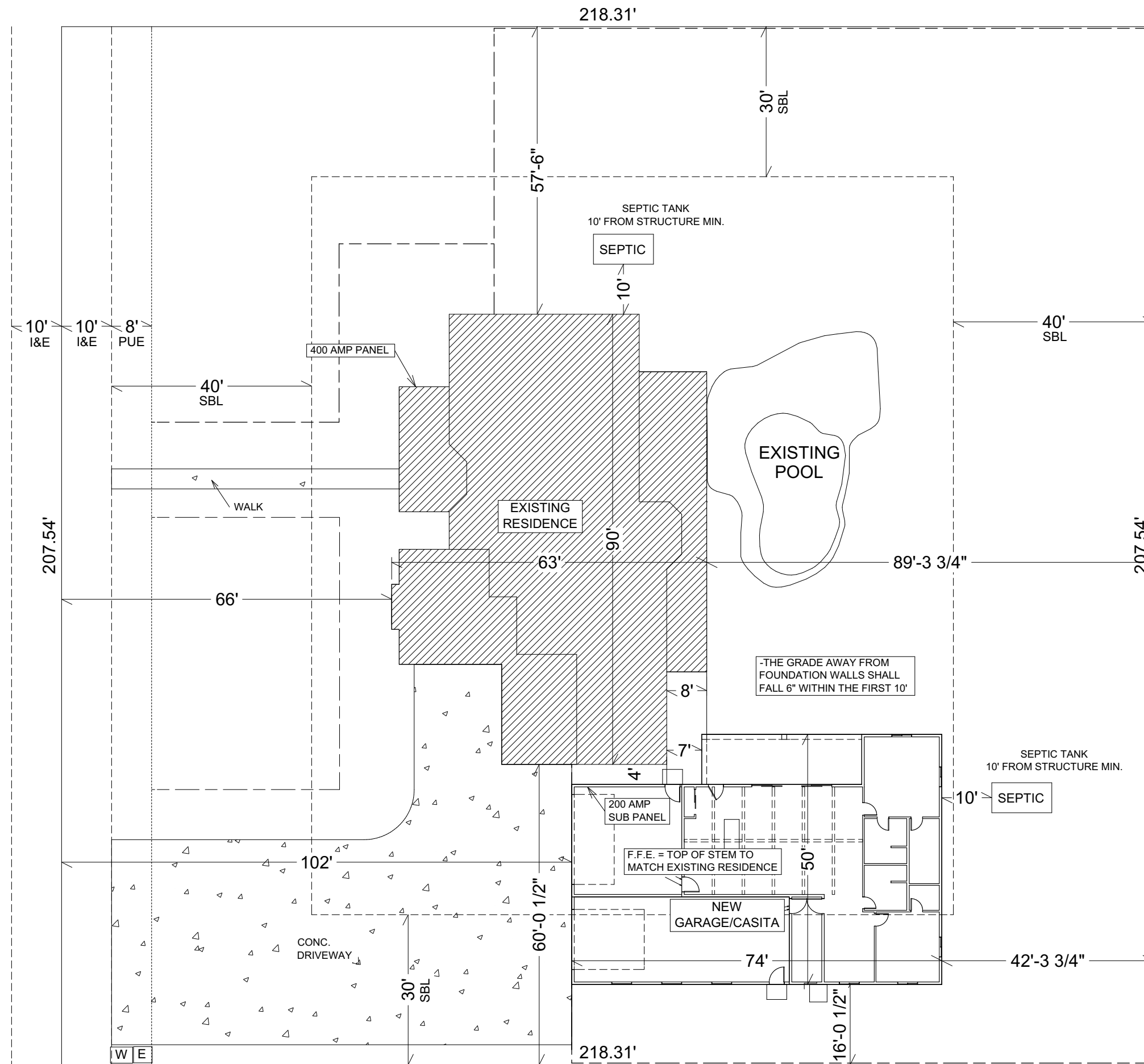
We would appreciate your support,

Name Richard & Corraene Schullott

Address 3472 S. 157th Way

Signature 





parcel #304-53-166D

Owner Name: DICKER FAMILY TRUST
Property Address:
3485 S. 157TH WY
GILBERT, AZ 85297
Jurisdiction: GILBERT
Zoning: SF-43
Lot Size (sq ft): 41,533

LOT COVERAGE
LOT AREA = 41,533 S.F.
EXISTING RESIDENCE = 4,615 S.F.
NEW LIVABLE: 1864 S.F.
NEW GARAGE: 495 S.F.
NEW RV GARAGE: 761 S.F.
NEW PORCH: 320 S.F.
NEW TOTAL: 3440 S.F.
TOTAL U.R.: 8055 S.F.
19.9% COVERAGE

SITE PLAN
SCALE 1" = 10'

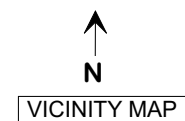


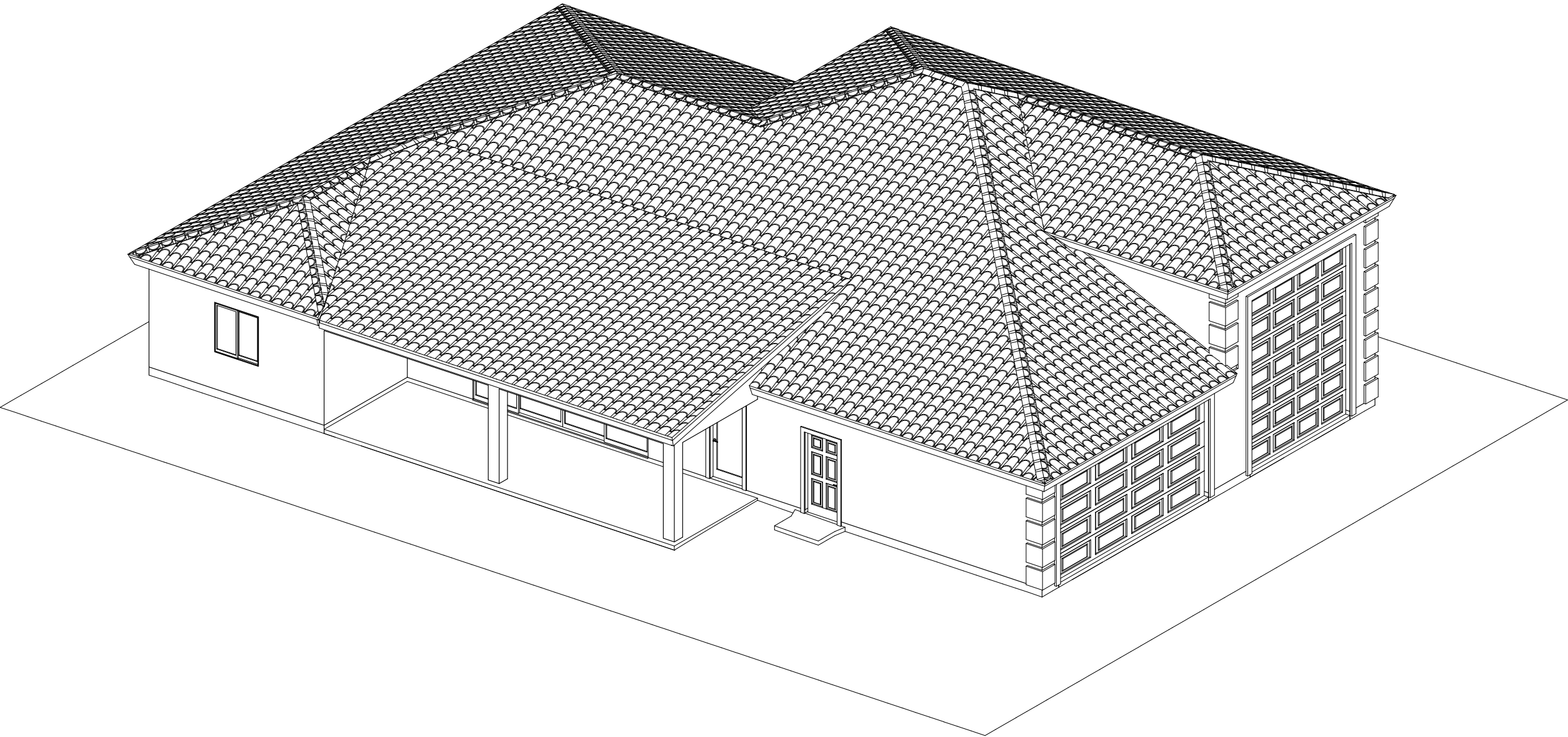
PECOS RD.

LEXINGTON ST.

157TH WY

GREENFIELD RD





****NOTE****
IT IS THE RESPONSIBILITY OF THE
CONTRACTOR TO VERIFY ALL
MEASUREMENTS, SPECS,
ELEVATIONS, ROOF LAYOUTS, ETC.
WITH SUB-CONTRACTORS,
SUPPLIERS, AND ENGINEERS.

DRAWINGS PROVIDED BY:
PHONE: 480-988-2472
G.E.R.
Drafting Services

REVISIONS
00-00-00
R1

DICKER GARAGE/CASITA
3485 S. 15TH WY
GILBERT, AZ 85297

FLOOR PLAN



STRUCTURAL ONLY

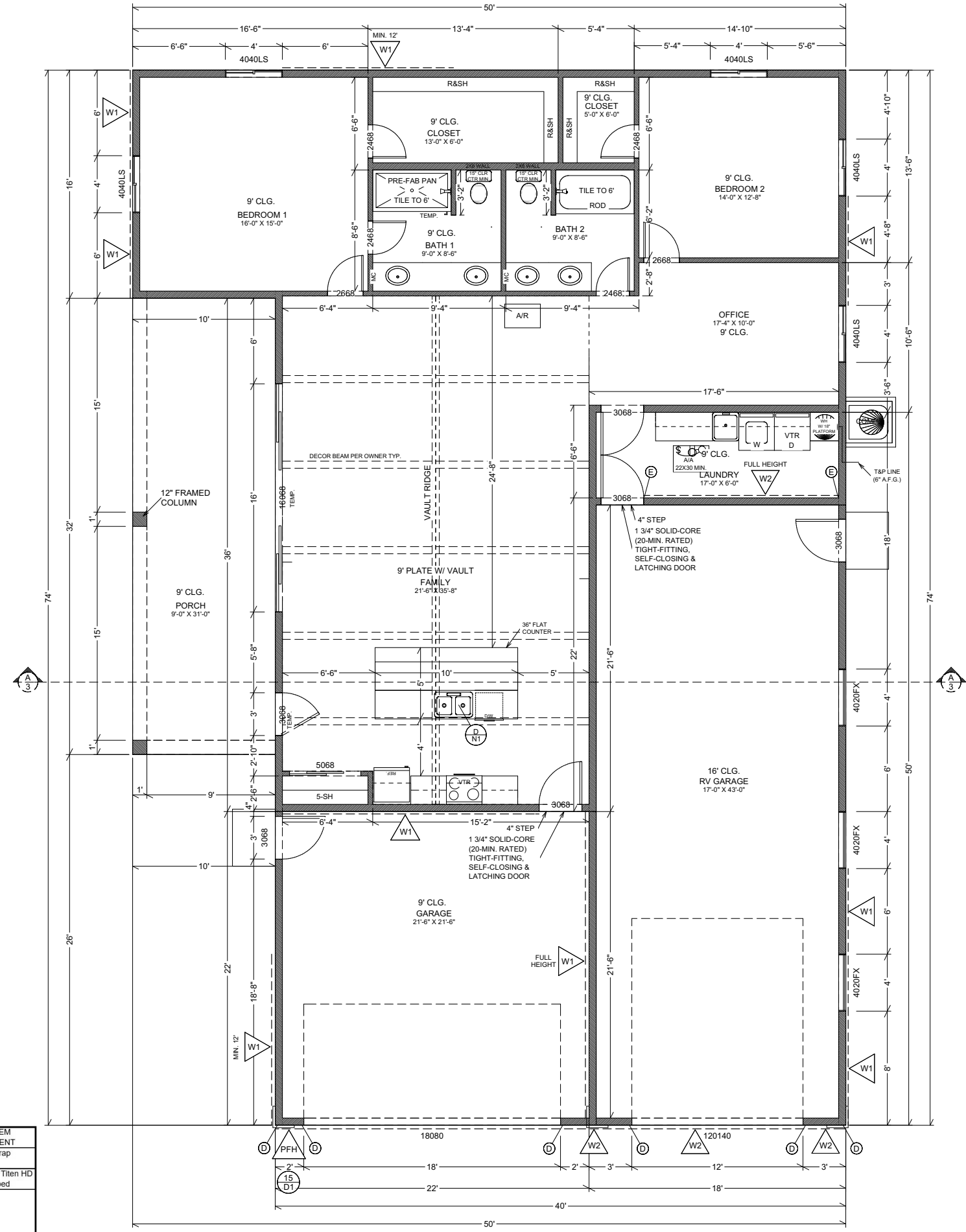
LIVABLE:	1864 S.F.
GARAGE:	495 S.F.
RV GARAGE:	761 S.F.
PORCH:	320 S.F.
TOTAL S.F.:	3440 S.F.

	PAGE INDEX
S1	SITE PLAN
COVER	OVERVIEW
1	FLOOR PLAN
2	FOUNDATION PLAN
3	ROOF FRAMING
4	ELEVATIONS/ CROSS SECTION A
5	ELEVATIONS
6	ELECTRICAL/ MECHANICAL
D1	FOUNDATION DETAILS
D2	FRAMING DETAILS
N1	CONSTRUCTION NOTES

DATE:
4/14/2020

SCALE:
1/4"=1'-0"

SHEET:
1



SHEARWALL SCHEDULE

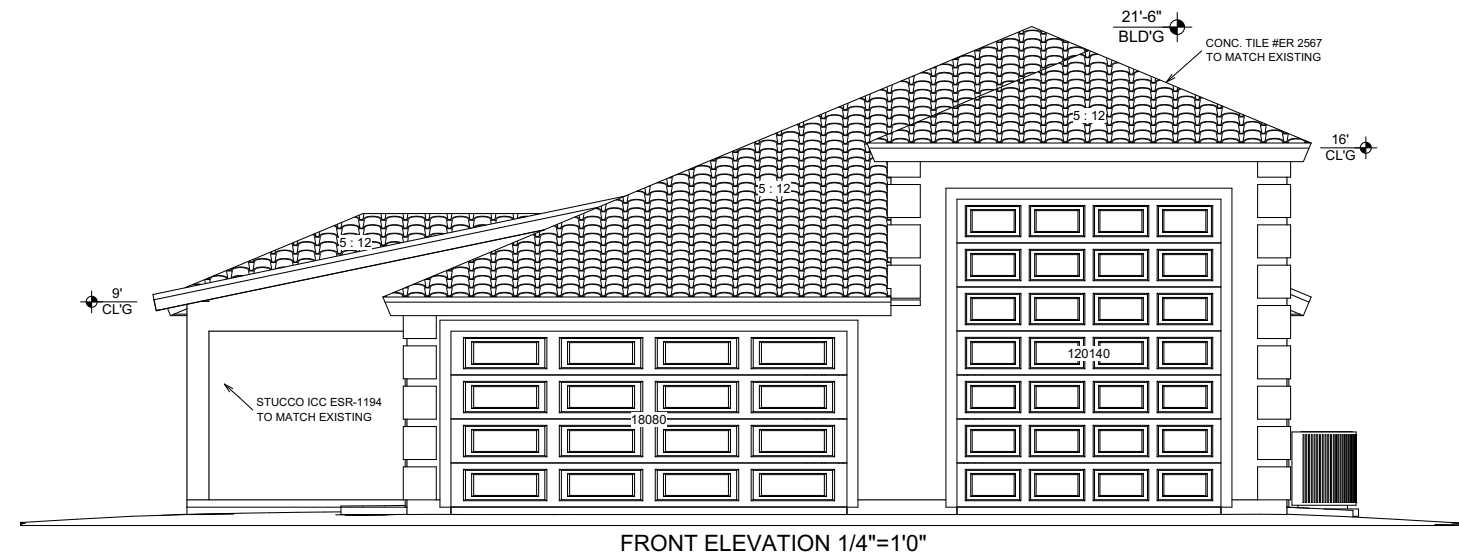
MARK	MATERIAL AND ATTACHMENT	BLOCK?	SILL PLATE ATTACHMENT	CAPACITY
W1	3/8" CD/CC Plywood /OSB Sheathing with 8d Nails @ 6" o.c. Edges & 12" o.c. Field	YES	1/2" Dia. Anchor Bolts @ 32" o.c. or 16d nails at 6" o.c.	299
W2	3/8" CD/CC Plywood /OSB Sheathing with 8d Nails @ 4" o.c. Edges & 12" o.c. Field	YES	1/2" Dia. Anchor Bolts @ 24" o.c. or 16d nails at 4" o.c.	469

Notes:
1 All anchor bolts shall be placed as specified and within 12" of the end of the wall.
2 See "HOLDOWN SCHEDULE" for Holdown requirements and designations.
3 Refer to plans for shear wall locations.
4 1/2" Dia. Hilti Kwik Bolt II wedge anchors with 6" embedment may be substituted for anchor bolts at interior walls only.
5 Shear wall edge nailing shall be installed to the same posts on which the holdowns are attached.
6 Edge nail to top of double plate and sill plate as well as sheet edges.

HOLDOWN SCHEDULE

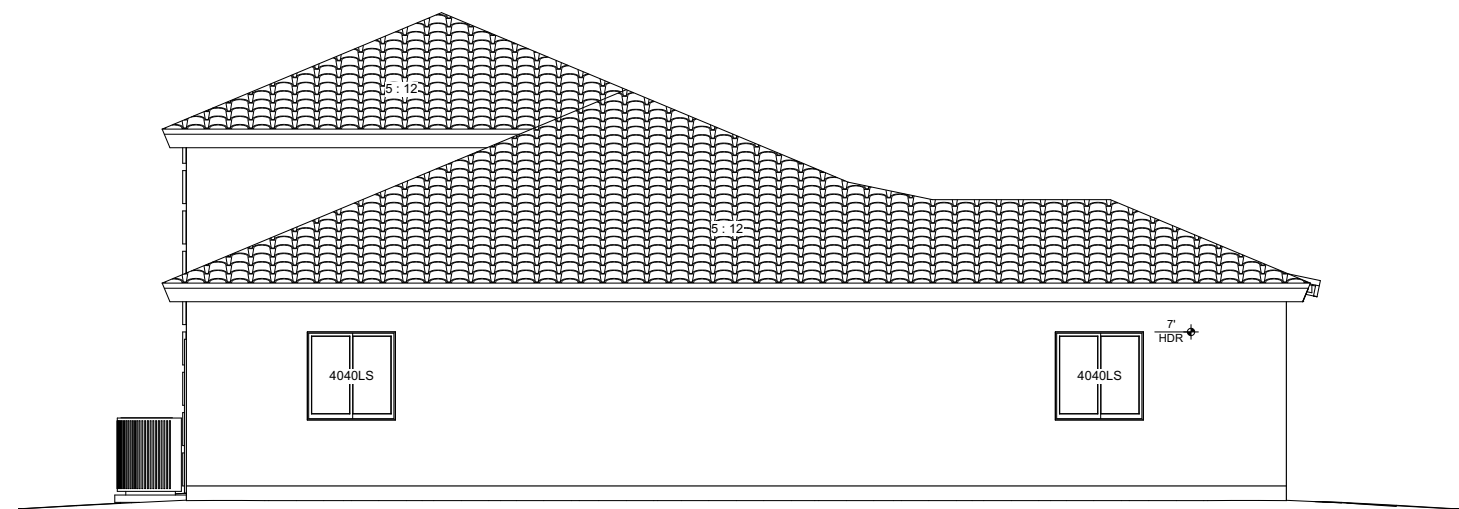
MARK	HOLDOWN	END POST	ATTACHMENT TO POST	SILL / STEM ATTACHMENT
D	STHD14	(2) 2X STUDS	(30)-16d Sinker Nails	wet set strap
E	HTT4	4X6 POST	(18) 16d x 2 1/2	SSTB16 or 5/8" Titen HD w/ 6" embed

Notes:
1 Holdowns shall be manufactured by Simpson or shall be of equivalent capacity with a current ICC report. Install as required by ICC report.
2 See "Shear Wall Schedule" for shearwall requirements and designations.
3 Refer to plans for Holdown locations.
4 Refer to shearwall plan and shearwall schedule for anchor bolt spacing at shearwalls.

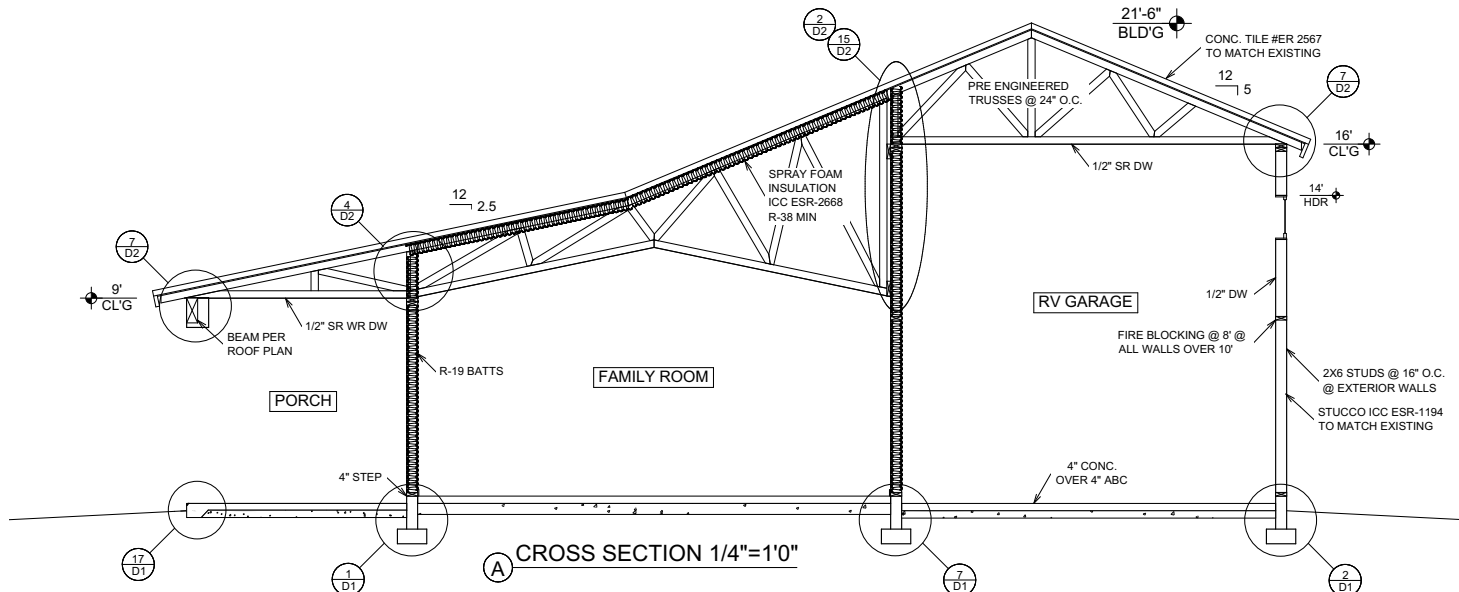


FRONT ELEVATION 1/4"=1'0"

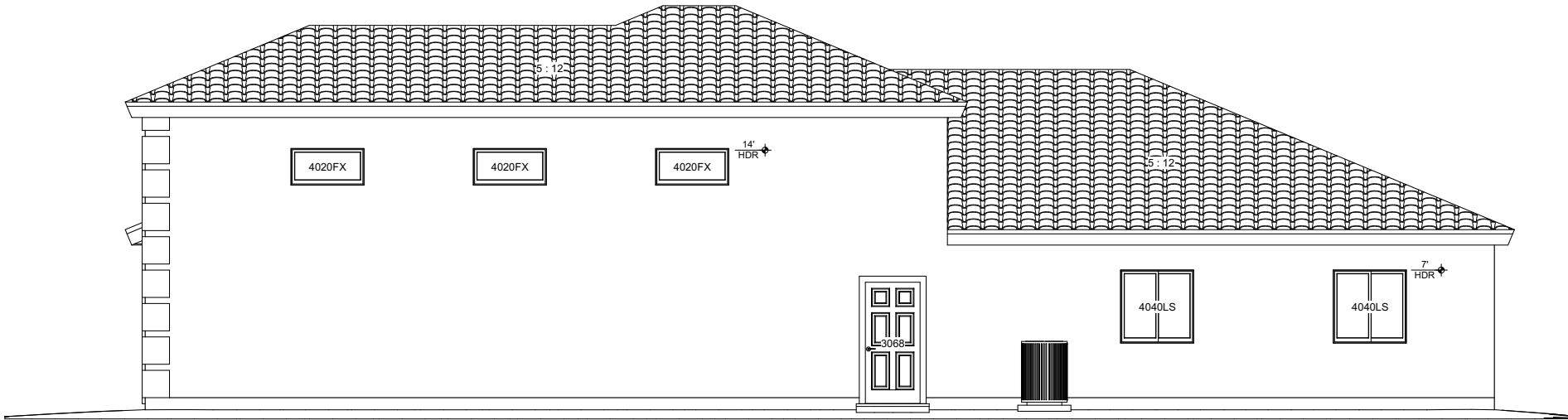
Exterior Elevation Front



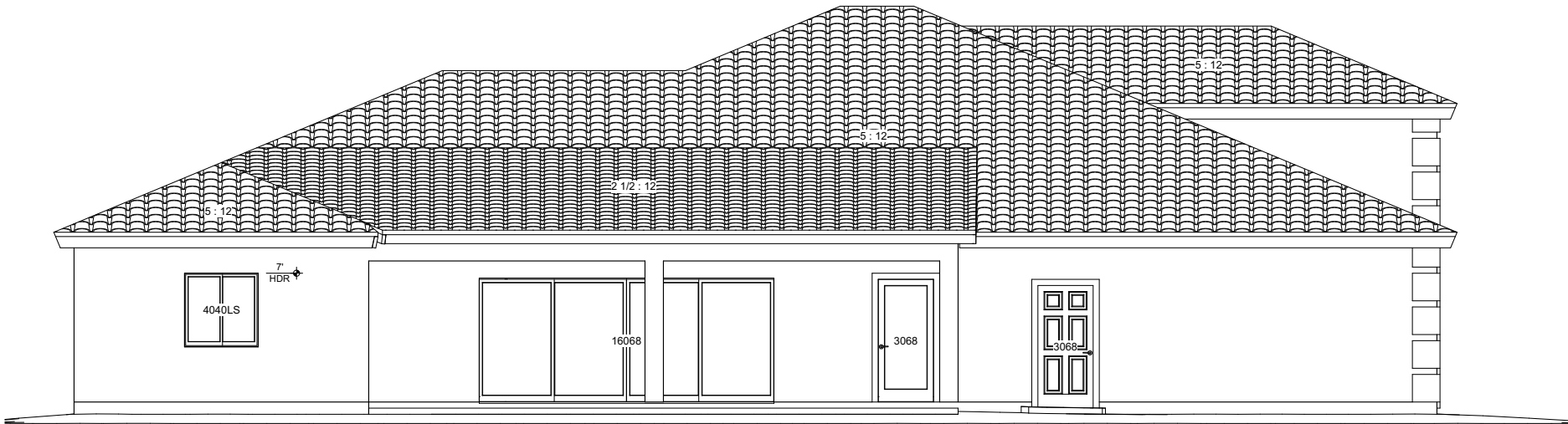
BACK ELEVATION 1/4"=1'0"



CROSS SECTION 1/4"=1'0"



RIGHT ELEVATION 1/4"=1'0"



LEFT ELEVATION 1/4"=1'0"

